



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SANTANA ROW HOTEL PARTNERS, L.P., ) CASE NO.: C 05-00198 JW  
Plaintiff, )  
v. )  
ZURICH AMERICAN INSURANCE )  
COMPANY, GALLAGHER-PIPINO, INC., )  
and ARTHUR J. GALLAGHER & CO. )  
Defendants. )  

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ZURICH AMERICAN INSURANCE )  
COMPANY, ) Amended Complaint Filed: November 30, 2005  
Cross-Complainant, )  
v. )  
GALLAGHER-PIPINO, INC. )  
Cross-Defendant. )  

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WHEREAS, the Court issued its Scheduling Order on October 26, 2005;  
WHEREAS, on November 16, 2005, the Court granted Plaintiff Santana Row Hotel Partners,  
LP leave to file a first amended complaint, naming Arthur J. Gallagher & Company as a defendant;

1        WHEREAS, Defendant Zurich filed its Motion to Dismiss Plaintiff's first amended  
2 complaint on January 13, 2006, which motion was denied by Order dated February 22, 2006;

3        WHEREAS, Arthur J. Gallagher & Company appeared and filed its answer on January 18,  
4 2006;

5        WHEREAS, the parties have and continue to conduct written discovery and to seek to resolve  
6 discovery disputes informally, and have and continue to resolve scheduling conflicts concerning the  
7 taking of oral depositions;

8        WHEREAS, Defendant Zurich has conducted five depositions on the issue of insurance  
9 coverage and Plaintiff has conducted four depositions;

10      WHEREAS, the Gallagher defendants have noticed and commenced but not completed one  
11 deposition on the issue of insurance coverage and Plaintiff has noticed two depositions on the issue  
12 of insurance coverage, one of which is presently scheduled to be conducted on March 10, 2006;

13      WHEREAS, following a meet and confer process, Defendant Zurich has filed a motion for  
14 leave to conduct more than ten fact witness depositions and to depose Plaintiff's F.R.C.P. 30(b)(6)  
15 designee for more than seven hours, which motion is presently scheduled for hearing before  
16 Magistrate Judge Lloyd on March 28, 2006;

17      WHEREAS, following further meet and confer efforts among the parties, counsel have  
18 stipulated that the Defendants (collectively) and Plaintiff may each conduct 20 lay witness  
19 depositions without leave of the Court and without waiver of their right to petition the Court for  
20 leave to conduct additional fact witness depositions. The issue of the number of hours of testimony  
21 Defendants may obtain from Plaintiff's F.R.C.P. 30(b)(6) designee remains on calendar for the  
22 March 28, 2006 hearing before Magistrate Judge Lloyd;

23      WHEREAS, several additional depositions of out-of-state third party witnesses remain to be  
24 taken on the issues of contract formation, insurance coverage promissory estoppel, third party  
25 beneficiary, and Plaintiff's damages, and arrangements must be made for deposing those individuals  
26 outside of California, including on the east coast;

27      WHEREAS, pursuant to the October 26, 2005 Scheduling Order, as amended by Orders  
28 dated January 10, 2006 and March 7, 2006, the parties' motion(s) for summary adjudication

1 regarding liability on the first and second claims for relief in Plaintiff's first amended complaint are  
2 scheduled for hearing on April 24, 2006;

3 WHEREAS, all parties believe that the information they will solicit through the outstanding  
4 depositions and written discovery will be critical to (1) the preparation and exchange of their  
5 respective expert witness reports pursuant to F.R.C.P. 26(a)(2)(B), and (2) the preparation and filing  
6 of dispositive motions;

7 WHEREAS, all parties agree that, under the current schedule, they will not have time to  
8 adequately prepare for either a productive F.R.C.P. 26(a)(2)(B) exchange or meaningful dispositive  
9 motions;

10 WHEREAS, all of the parties agree that the dates in the Scheduling Order should be changed  
11 to allow the parties to complete lay witness deposition discovery, to engage in a more productive  
12 expert witness exchange, to otherwise narrow the issues for the submission of dispositive pre-trial  
13 motions, and to prepare for trial; and

14 WHEREAS, all parties agree that, in light of the complexity of the issues in dispute and the  
15 nature and scope of the discovery that still remains outstanding, the changes requested herein are  
16 necessary to the productive and orderly handling of this matter;

17 IT IS THEREFORE STIPULATED by and between the parties hereto, through their  
18 respective counsel of record, as follows:

- 19 1. The date regarding expert witness disclosure referenced in paragraph 4 of the  
20 Scheduling Order is changed from May 15, 2006 to September 15, 2006;
- 21 2. The date regarding the disclosure of rebuttal expert witnesses referenced in paragraph  
22 8 of the Scheduling Order is changed from May 30, 2006 to October 1, 2006;
- 23 3. The date regarding the hearing of motions to exclude experts/expert testimony  
24 referenced in paragraph 7 of the Scheduling Order is changed from July 15, 2006 to  
25 November 16, 2006;
- 26 4. The date regarding the close of discovery referenced in paragraph 10 of the  
27 Scheduling Order is changed from June 30, 2006 to November 15, 2006;
- 28 5. The hearing date for motions or cross-motions for summary adjudication on liability

1 under the first two claims for relief of Plaintiff's first amended complaint is changed  
2 from April 24, 2006 to no later than October ~~9~~<sup>16</sup>, 2006;

3 6. The last date for hearing of dispositive motions is changed from August 28, 2006 to  
4 ~~18~~  
December ~~15~~, 2006; and

5 7. The date for the filing and lodging of the Preliminary Pretrial and Trial Setting  
6 Conference statement is changed from September 20, 2006 to January 15, 2007, and  
7 the date for the Preliminary Pretrial and Trial Setting Conference is changed from  
October 2, 2006 to January ~~30~~<sup>29</sup>, 2007. at 11:00am.

8 Dated: March 10, 2006

RUBY & SCHOFIELD

9 /s/  
10 By: \_\_\_\_\_  
11 Steven A. Ellenberg

12 Attorneys for Plaintiff, Santana Row  
13 Hotel Partners, L.P.

14 Dated: March 10, 2006

JONES TURNER, LLP

15 /s/  
16 By: \_\_\_\_\_  
17 Steven D. Turner

18 Attorneys for Defendant, Zurich  
19 American Insurance Company

20 Dated: March 10, 2006

21 SELVIN WRAITH HALMAN, LLP

22 /s/  
23 By: \_\_\_\_\_  
24 Gary R. Selvin

25 Attorneys for Defendants, Gallagher  
26 Pipino, Inc. and Arthur J. Gallagher &  
27 Company.  
28

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

Dated: March 13, 2006

The Honorable James Ware  
United States District Court

